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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,660	01/15/2002	Louisa Shaefer	1113KH-41603	6615

7590 05/31/2002

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EXAMINER

TRUONG, BAO Q

ART UNIT PAPER NUMBER

2875

DATE MAILED: 05/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/047,660

Applicant(s)

SHAEFER, LOUISA

Examiner

Bao Q. Truong

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "a portion of the housing itself" in claim 8 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Objections*

2. Claims 6 and 13 are objected to because of the following informalities: the applicant recites "it" in those claims. What does "it" refer to? Appropriate correction is required.

### *Double Patenting*

Below is a table of comparison claims for double patenting.

Application claims	Patent claims US 6,390,647	Note
1	1	Obvious
2		In view of US 6,114,813
3		In view of US 6,114,813

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4		In view of US 6,114,813
5	3	Identical
6	1	Obvious
7	1	Obvious
8	1	Obvious
9	2	Obvious
10	3	Identical
11	4	Identical
12	5	Identical
13	2	Obvious
14	2	Obvious
15	6	Obvious
16	6	Obvious
17	6	Obvious
18	7	Identical
19	8	Identical
20	9	Identical
21	10	Identical

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double

patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1 and 5-8 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 3 of U.S. Patent No. 6,390,647. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of the application claims 1 and 5-8 are broader and anticipated by the claims 1 and 3 of US 6,390,647.

5. Claims 2-4 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,390,647 in view of Lo et al. [US 6,114,813]. Claim 1 of U.S. Patent No. 6,390,647 does not disclose the controlling means in a stepwise manner, in a continuously variable manner, and a solid state controller.

Lo et al. teach a control knob [18] for dimmer switch and a triac in a lamp [11] (figures 1A and 5, column 12, lines 1-20).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the switch in claim 1 of U.S. Patent No. 6,390,647 by the dimmer switch of Lo et al. in order to provide an advantage of brightness controlling.

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6. Claims 9-14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2-5 of U.S. Patent No. 6,390,647. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of the application claims 9-14 are broader and anticipated by the claims 2-5 of US 6,390,647.

7. Claims 15-21 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 6-10 of U.S. Patent No. 6,114,813. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of the application claims 15-21 are broader and anticipated by the claims 6-10 of US 6,390,647.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-3 and 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwartz [US 4,343,032].

Regarding claim 1, Schwartz discloses a housing portion [10], a light bulb [18], a control circuit [30] and a photo cell [38] as a means for controlling brightness of the light bulb [18] (figures 1 and 6, abstract, column 1, lines 50-65, column 2, lines 5-45).

Regarding claim 2, Schwartz discloses a photo cell [38] to control the light [18] gradually getting brighter (abstract).

Regarding claim 3, Schwartz discloses a quadrac [46] (figure 6, column 1, line 13 and column 2 lines 30-39).

Regarding claim 5, Schwartz discloses a photo cell [38] (figure 6).

Regarding claim 6, Schwartz discloses a housing portion [10] being sealed to be weather tight; and a light device could be use outdoor (figure 1).

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz as applied to claim 1 above, and further in view of Lo et al. [US 6,114,813].

Regarding claim 4, Schwartz does not disclose the controlling means in a stepwise manner.

Lo et al. teach a control knob [18] for dimmer switch in a lamp [11] (figures 1A and 5, column 12, lines 1-20).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the control knob for dimmer switch of Lo et al. in order to provide an advantage of brightness controlling.

12. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz as applied to claim 1 above, and further in view of Houssian [US 5,495,402].

Regarding claims 7 and 8, Schwartz does not disclose a rotary switch.

Houssian teaches the use of rotatable switch (column 3, lines 45-52).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the switch system of Schwartz with the rotatable switch of Houssian in order to provide an advantage of controlling a light source.

13. Claims 9, 10 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lai [US 5,964,516] in view of Schwartz [US 4,343,032].

Regarding claim 9, Lai discloses a body [10], a light transmitting member [40], conductor blades [20], a contact plate [31] and a light source [30] (figures 2 and 3, column 3, lines 11-40). Lai does not disclose the bulb and the control circuit.

Schwartz teaches the use of a bulb [18] and a control circuit [30] in a night light (figures 1 and 6).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the contact plate and the light source of lai by the bulb [18] and the control circuit [30] of Schwartz in order to provide an advantage of controlling the light source.

Regarding claim 10, Schwartz discloses a photo cell [38] (figure 6).

Regarding claim 12, Lai discloses a light-transmitting member [40] (figure 2).

Regarding claim 13, Lai discloses a hinged door [151, 60] (figures 1, 2 and 4, column 3, lines 50-65).

Regarding claim 14, Lai discloses a body [10] covered an electrical outlet (figure 3).

14. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lai [US 5,964,516] in view of Schwartz [US 4,343,032] as applied to claim 9 above, and further in view of Houssian [US 5,495,402].

Regarding claim 11, Lai and Schwartz do not disclose an on/off switch.

Houssian teaches the use of pushbutton switch (column 3, lines 45-52).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the pushbutton switch of Houssian in order to provide an advantage of controlling a light source.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bao Q. Truong whose telephone number is (703) 308-6452. The examiner can normally be reached on Monday-Friday (8:00 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea can be reached on (703) 035-4939. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

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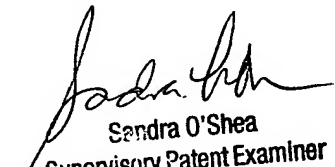
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308-7722 for regular communications and (703) 308-7725 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 0956.

Bao Q. Truong  
Examiner  
Art Unit 2875

BQT  
May 28, 2002

  
Sandra O'Shea  
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